REMARKS

Claims 1-22 were presented for examination in the present application and remain pending upon entry of the instant amendment. Claims 1, 9, and 22 are independent.

The Office Action objects to the current format of the Specification citing to the requirements of 37 C.F.R. §1.77(b). As best understood by the Applicants, the Office Action is requiring section headings be added to the specification.

Applicants respectfully traverse this objection. Specifically, Applicants point to the Preliminary Amendment filed simultaneous with the filing of the present application, which included the section headings required by 37 C.F.R. §1.77(b). Accordingly, Applicants respectfully request reconsideration and withdrawal of this objection.

Independent claims 1, 9, and 22, as well as dependent claims 2-8 and 10-21, were rejected under 35 U.S.C. §103 over U.S. Publication No. 20030021234 to Soltysiak et al. (Soltysiak) in view of U.S. Publication No. 20030063566 to Ambramovitch et al. (Ambramovitch) and in further view of U.S. Publication No. 20030179777 to Denton et al. (Denton).

Applicant respectfully maintains the traversal previously presented.

Independent claim 1 recites, in part, determining incorrectly and correctly transmitted payload data "**before the respective data packet is completely received** by the at least one network subscriber (emphasis added)".

In contrast, Soltysiak discloses identifying and counting bit errors that occur during a predetermined monitoring period. Thus, Soltysiak merely counts a number of errors once these transmissions are complete and not <u>before</u> as claimed.

The Office Action interprets the teaching of Soltysiak in such a way that a number of STS frames (packets), which are multiplexed to a STS-n frame, traverse the error counter (106) for different periods of time and depending on the volume of data transmitted, the BER threshold can be crossed or not or a determination whether data packets have been transmitted incorrectly or correctly is possible even before the respective data packets are completely received by the network subscriber.

With regard to the interpretation of Soltysiak, first it remains unclear which data packet or frame the Office Action is referring to. Second, the BIP-8 byte which is used for an error checking works as an eight-bit interleave parity code based on the respective payload data, i.e., B1 for the section payload, B2 for the line payload, and B3 for the path payload as seen in Figure 2. Thus, applicants submit that for determining a bit error, the respective BIP-8 and the belonging payload data must be completely received. See paragraph [0007].

In a similar way the Office Action interprets the teaching of Abramowitch, wherein the error analyzer (13, 21) compares received bit pattern to the stored bit pattern and wherein by sampling the received bit pattern, the error rate can be derived even before the entire bit pattern is received.

With regard to the interpretation of Abramovitch, Applicants submit that before an entire bit pattern is received, it would merely be possible to determine a too high error rate and/or incorrectly transmitted pattern. However, for a statement about correctness the entire bit pattern must first be received. The same applies to Denton.

Accordingly, Applicant submits that the proposed combination of cited art fails to disclose or suggest independent claim 1, or claims 2-8 that depend therefrom.

None-the-less, and in the interest of expediting prosecution, independent claims 1, 9, and 22 have been clarified to point out various aspects of the present application that are clearly not disclosed or suggested by the proposed combination of Soltysiak,

Ambramovitch, and Denton.

Independent claim 1 has been clarified to recite the steps of "transmitting a defined data record **in addition to** the payload data **within** the payload data block", where the defined data record is used to "determine incorrectly and correctly transmitted payload data" (emphasis added).

Again, Soltysiak discloses the BIP-8 byte B1, B2, or B3 that is used for error checking is within the header of the respective packet or frame as shown in Figure 2, but not **within** the payload data block **in addition to** the payload data itself as now recited in claim 1.

Ambramovitch and Denton also do not disclose or suggest the step of "transmitting a defined data record **in addition to** the payload data **within** the payload data block" as in amended claim 1.

Accordingly, Applicant submit that the proposed combination of cited art also fails to disclose or suggest clarified independent claim 1, or claims 2-8 that depend therefrom.

In view of the above, claims 1-8 are in condition for allowance. Reconsideration and withdrawal of the rejection to claims 1-8 are respectfully requested.

Similar to claim 1 discussed above, Applicants respectfully maintain the traversal of independent claims 9 and 22 over the proposed combination of cited art.

More particularly, claim 9 recites "means for determining, **before** the respective data packet is **completely received** by the respective network subscriber", while claim 22 recites "performing a safety-relevant verification of the transmission… **before** the transmitted data packets are **completely received**" (emphasis added).

Again, Applicants submit that Soltysiak discloses determining a bit error using the respective BIP-8 such that the payload data must be completely received. <u>See</u> paragraph [0007]. Abramowitch discloses that it would be possible to determine a too high error rate and/or incorrectly transmitted pattern, but fails to disclose or suggest the correctness of the entire bit pattern until it is completely received. The same applies to Denton.

Accordingly, Applicant maintain that the proposed combination of cited art fails to disclose or suggest independent claims 9 or 22, or claims 2-8 that depend therefrom, respectively.

Notwithstanding the above, and merely in the interest of expediting prosecution, claims 9 and 22 have been clarified to point out various aspects of the present application that are clearly not disclosed or suggested by the proposed combination of Soltysiak, Ambramovitch, and Denton.

For example, claim 9 now recites that "an expected defined data record which, in addition to the payload data, is embedded within the payload data block of each data packet". Claim 22 now recites "embedding an expected defined data record in addition to the payload data within the payload data block of each data packet".

Soltysiak discloses the BIP-8 byte B1, B2, or B3 that is used for error checking is within the header of the respective packet or frame as shown in Figure 2, but not **within** the payload data block **in addition to** the payload data itself as now recited in claims 9 and 22. Ambramovitch and Denton also do not disclose or suggest expected defined data record embedded within the payload data block in addition to the payload data as in amended claims 9 and 22.

Accordingly, Applicant submit that the proposed combination of cited art fails to disclose or suggest clarified independent claims 9 or 22, or claims 2-8 that depend therefrom, respectively.
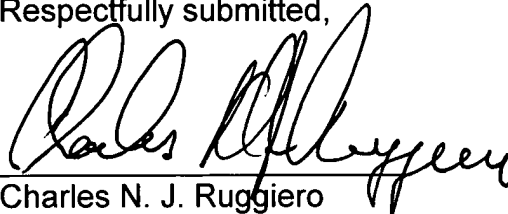
Therefore, claims 9 and 22, as well as claims 10-21 that depend therefrom, respectively, are in condition for allowance. Reconsideration and withdrawal of the rejection to claims 9-22 are respectfully requested.

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited.

If for any reason the Examiner feels that consultation with Applicant's attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

Respectfully submitted,

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